IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 25320 of 2004

Between:

Challagundla Sobhan Babu S/o Mohana Rama Naiduk
R/o Agarampalli village, Kanipakam Post, Irala Mandal,
Chittoor District.

..... PETITIONER

AND

The Executive Officer and Joint Commissoner Swayambhu Sri

Varasidhi vinayaka Swami Temple
Kanipakam, Irala Mandal, Chittoor District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondent for cancellation of the license of the petitioner in respect of shop No.18 allotted to him for a period of 3 years from 01/10/2004 in the absence of any violation of any tender conditions or allotment order is highly arbitrary, unjust and opposed to principles of natural justice and consequently declare the show cause notice issued by the respondent in Rc.No.J1/1337/2004 dt. 21/12/2004 is in valid .

Counsel for the Petitioner: MR.P.RAJASEKHAR

Counsel for the Respondent: MR.V.VENUGOPALA RAO

The Court at the stage of admission made the following ORDER:

Petitioner was granted licence in respect of Shop No.18, by the Executive Officer of Sri Varasidhi Vinayaka Swami Temple, Kanipakam, Chittoor district for a period of three years, with effect from 01.10.2004. He was issued a show cause notice dated 21.12.2004, requiring him to show cause as to why the licence should not be cancelled, on the ground that he was running a cloak room in the premises. The petitioner challenges the same.

Learned counsel for the petitioner submits that the petitioner responded to a notification dated 25.02.2004 and emerged as the highest bidder for the shop No.18. He contends that neither in the notification nor in the letter of allotment there was any condition, prohibiting the petitioner from running the cloak room, and in that view of the matter, the very show cause notice is without basis.

Learned standing counsel for the Devasthanam, on the other hand, submits that though such a condition is not imposed in the letter of allotment, the fact remains that the Devasthanam had granted the licence in respect of another premises for the specific purpose of running a cloak room and in that view of the matter the contention of the petitioner cannot be accepted. He also brings to the notice of this Court, that the petitioner had submitted an undertaking not to run a cloak room and in that view of the matter no further adjudication is necessary.

Entertaining the writ petitions against the show cause notices is almost a rarity. It is only when a show cause notice was issued by an authority not vested with

the power or where the show cause notice is contrary to specific provisions of law that the Court can interfere. In the instant case, the show cause notice was issued by an authority vested with the power and in relation to a contractual matter.

The necessity to adjudicate upon the maintainability of the writ petition or to delve into the merits of the matter is obviated for the reason that the petitioner had voluntarily submitted an undertaking to the effect that he does not intend to run the cloak room in the premises in question. In that view of the matter, the very basis for the show cause notice ceases to exist.

Hence, the writ petition is disposed of recording the undertaking submitted by the petitioner to the effect that he does not intend to run the cloak room, and directing that the petitioner shall be continued as licencee as long as he adheres to that condition and does not violate any other conditions. There shall be no order as to costs.

24.01.2005

ksld

To

1 The Executive Officer and Joint Commissoner Swayambhu Sri

Varasidhi vinayaka Swami Temple
Kanipakam, Irala Mandal, Chittoor District.

2 Two CD copies.